IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 11337 of 2005

Between:

1 Neelakanti Venkata Ramana. S/o.Gopaiah.
R/o.door No.2-12-5, Stambhalagaruvu, Guntur, Guntur district.
2 Neelakanti Shanthi, W/o.Venkata Ramana.
R/o.Door No.2-12-5, Stambhalagaruvu, Guntur, Guntur district.

..... PETITIONERS

AND

1 The Union of India, Rep by its Secretary, Ministry of Law, Shastry Bhavan, R.P.Road, New delhi.
2 The Syndicate Bank , Rep by its Branch Manager, Brundavan Gardens, Guntur.
3 Patti Mallikarjuna Rao. S/o.Subba Rao, R/o.3-13-107/A, 7th Line, Krishna Nagar, Guntur.
4 Namana Vishnu Kumar, S/o.Sankara Rao, Ramanujakutam, Near Brundavan Temple, Krishna Nagar, Guntur.
5 Gonuguntla Rama Devi, W/o.Anjaiah, 7th Line, Krishna Nagar, Guntur.
6 I.Sambasiva Rao, R/o.Satuluru Village, Narasaraopet Mandal, Guntur district.
7 Sub Inspector of Police, Pattabhipuram Police Station, Guntur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate order or direction or a writ more particularly a writ in the nature of Mandamus directing the respondents here in not to demolish the residential building item No.2 with Door No.2-12-63/A situated in Sy.No.68/2, at Stambhalagaruvu, Guntur, pending disposal of the Appeal No.83/2004 before the Debt Recovery Tribunal, Visakhapatnam by declaring the auction proceedings conducted by the 2nd respondent bank without following the procedure and

guidelines issued by the Reserve Bank of India is illegal, void and without jurisdiction which is contrary to section 31(i) of the SARFAESI Act, 2002 and to pass such other order or orders.

Counsel for the Petitioners:MR.G.DHARMA RAO

Counsel for the Respondents: GP FOR LAW & LEGISLATIVE AFFAIRS

The Court made the following :

ORDER:

This writ petition has been filed by the petitioners, who are two in number, with a prayer to issue an appropriate order or direction or a writ more particularly one in the nature of *Mandamus* directing the respondents herein not to demolish the residential building bearing door No.2-12-63/A situated in Sy.No.68/2, at Stambhalagaruvu, Guntur, Guntur District, pending disposal of the Appeal No.83/2004 before the Debt Recovery Tribunal, Visakhapatnam by declaring the auction proceedings conducted by the 2nd respondent-Bank, without following the procedure and guidelines issued by the Reserve Bank of India, as illegal, void and without jurisdiction.

The writ petitioners are the debtors of the Syndicate Bank-

2nd respondent. Consequent on failure of the petitioners to discharge the loan, their

properties have been brought to sale by the 2nd respondent. Questioning the auction notice, the petitioners filed an application before the Debt Recovery Tribunal, Visakhapatnam. They also sought for an interim relief before the Tribunal *vide* I.A.No.599 of 2004 in Appeal No.83 of 2004. Initially, interim stay of the auction was granted on 02.11.2004 and subsequently it was vacated on 31.12.2004. Aggrieved by the order passed on interim application, the petitioners filed an appeal before the Debt Recovery Appellate Tribunal, being M.A. (SR) No.9 of 2005. The appeal came to be disposed of directing the Debt Recovery Tribunal to dispose of the application of the petitioners on or before 18.02.2005. While so, the 2nd respondent-Bank proceeded with the auction of the properties and the properties have been purchased by respondents 3 & 6.

It is the grievance of the petitioners that the respondents 3 & 6 are trying to demolish the existing building pending the application before the Debt Recovery Tribunal and therefore, they seek stay of demolition.

Admittedly, respondents 3 & 6 are the auction purchasers. They being the auction purchasers are entitled to deal with the properties as they like. The petitioners having failed to secure interim stay from the Debt Recovery Tribunal as well as Debt Recovery Appellate Tribunal, cannot be permitted to contend that demolition of the properties by the auction purchasers is in violation of their rights guaranteed under the Constitution of India. As respondents 3 & 6 are the lawful owners having purchased the said properties in the auction, they cannot be prevented from enjoying the same as they like. The petitioners have to work out their remedies before the Debt Recovery Tribunal.

Therefore, this writ petition is devoid of merits and it is hereby dismissed. No order as to costs.

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B.SESHASAYANA REDDY,J

Dated:01.07.2005

GJ

To

1 The Union of India, Rep by its Secretary, Ministry of Law, Shastry Bhavan, R.P.Road, New delhi.
2 The Syndicate Bank , Rep by its Branch Manager, Brundavan Gardens, Guntur.
3 The Sub Inspector of Police, Pattabhipuram Police Station, Guntur.

4. Two C.Cs. to the Government Pleader for Law & Legislative Affairs, High Court of A.P., Hyderabad. (O.U.T.)

5. Two C.D. copies.